

PATENT

REMARKS

In the Office Action, claims 1-9, 13-20 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,833,623 to *Mann et al.* in view of U.S. Patent No. 5,549,654 to *Powell*.

In the Office Action, claims 10-12 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,833,623 to *Mann et al.* in view of U.S. Patent No. 5,549,654 to *Powell* and further in view of U.S. Patent No. 5,861,012 to *Stroebel*.

In response thereto, claims 1, 15-18, and 22 have been amended and new claims 23-25 have been added. Accordingly, claims 1-8, 10-19, 21-25 are now pending. Following is a discussion of the patentability of each of the pending claims.

Independent Claim 1

Claim 1 recites a system for automating review of capture verification. The system comprises a control means for generating an electrogram having a visual representation of the presence and absence of a captured cardiac event. The control means comprises means for marking the captured cardiac event in the visual representation with a text marker representative of capture and means for marking absence of the captured cardiac event with a text marker representative of absence of capture in a location in the visual representation where the captured cardiac event was expected to occur.

The *Mann et al.* reference discloses a programmer to perform automated and customized follow-up examination of a patient having an implantable device. Column 13, line 62 through column 14, line 1 states that "...the programmer 120 includes software routines for stepping through an implantable device test sequence (e.g., a real-time segment of ECG, IEGM and/or marker data) and automatically identifying significant events or transitions (such as the loss of atrial or ventricular capture, substantial heart rate changes, etc.)." The Examiner further cites Table 1. Table 1 lists a master set of protocol steps (i.e., loss of capture) that can be included in a custom protocol for a family of implantable devices. Listed to the right of each protocol step are the options that can

be specified by the clinician for each protocol step. Using edit buttons such as the MOVE STEP and SAVE PROTOCOL buttons of FIG. 4, the clinician can create, modify, and save follow-up protocols which include various combinations of these protocol steps. However, the *Mann et al.* reference does not disclose or suggest the manner in which the significant events are identified. In particular, the *Mann et al.* reference does not disclose or suggest an electrogram having a visual representation with text marker representative of capture. Nor does the *Mann et al.* reference disclose or suggest text marker representative of absence of capture in a location in the visual representation where the captured cardiac event was expected to occur.

The *Powell* reference discloses an implantable device which communicates with an external programmer. The external programmer is capable of displaying ten-second intervals of ECG data and a corresponding Marker Channel Diagram. An example of an ECG waveform and Marker Channel Diagram is illustrated in Figure 3. In an ECG field (102), a ten-second portion of patient ECG data is displayed. Also appearing in the ECG field are pacing artifacts (104). Below the ECG field is the Marker Channel Diagram field (106). The Marker Channel Diagram is formed by a series of lines and symbols that depict pacemaker operation. Symbols depicting atrial events appear along the top side of a baseline (108) and symbols depicting ventricular events appear along a bottom side of a baseline (110). Between the baselines is a diagram depicting the timing relationship between atrial and ventricular events. The Marker Channel Diagram further includes an explanatory text box. The text in the box explains what situation is represented by the Marker Channel Diagram in the section selected by the user. In the particular example depicted in Figure 7, the section selected is an upward sloping line between a ventricular pace event and an atrial pace event. Accordingly, the text in the box (156) indicates that "This is a ventricular pace to atrial pace at the V-A escape time."

The *Powell* reference does not disclose or suggest a control means for generating an electrogram having a visual representation of the presence and absence of a captured cardiac event, wherein control means comprises means for marking the captured cardiac event in the visual representation with a text marker representative of capture and means for marking absence of the captured cardiac event with a text marker representative of

PATENT

absence of capture in a location in the visual representation where the captured cardiac event was expected to occur. In the *Powell* reference, the ECG field does not include text markers to identify cardiac events. As described above, the Marker Channel Diagram does include text markers to identify various cardiac events. However, the Marker Channel Diagram does not include the display of an electrogram. The Marker Channel Diagram is formed by a series of lines and symbols that depict pacemaker operation.

The *StroebeI* reference is cited because it discloses a capture detection and threshold-measurement system in which a safety margin is added to the pacing threshold value. The *StroebeI* reference does not disclose or suggest a visual representation with a text marker representative of capture and a text marker representative of absence of capture in a location in the visual representation where the captured cardiac event was expected to occur.

Accordingly, it is respectfully submitted that claim 1 is in condition for allowance.

Dependent Claims 2-8, 10-14, and 23

Claims 2-8, 10-14, and 23 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 15

For at least the same reasons discussed above with regards to claim 1, it is respectfully submitted that claim 15 is in condition for allowance.

Dependent Claim 24

Claim 24 depends from claim 15 and is similarly patentable. Accordingly, it is respectfully submitted that claim 24 is in condition for allowance.

Independent Claim 16

For at least the same reasons discussed above with regards to claim 1, it is respectfully submitted that claim 16 is in condition for allowance

PATENT

Dependent Claims 17-19 and 21

Claims 17-19 and 21 depend from claim 16 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 22

For at least the same reasons discussed above in regards to claim 1, it is respectfully submitted that claim 22 is in condition for allowance.

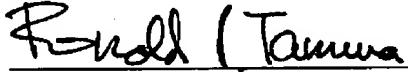
Dependent Claim 25

Claim 25 depends from claim 22 and is similarly patentable. Accordingly, it is respectfully submitted that claim 25 is in condition for allowance.

CONCLUSION

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

Date8/25/04

Ronald S. Tamura, Reg. No. 43,179
Patent Attorney for Applicant

CUSTOMER NUMBER: 36802

Serial No. 09/764,617

Page 12 of 12

Docket No. A01P1002